UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,080	09/26/2000	Jerome Meric	11345.017001	4075

22511   7590   09/22/2005

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

EXAMINER
LAMBRECHT, CHRISTOPHER M

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2" colspan="2">Advisory Action
Before the Filing of an Appeal Brief</td><td>Application No.</td><td>Applicant(s)</td></tr>
<tr><td>09/647,080</td><td>MERIC ET AL.</td></tr>
<tr><td></td><td></td><td>Examiner</td><td>Art Unit</td><td></td></tr>
<tr><td></td><td></td><td>Christopher M. Lambrecht</td><td>2611</td><td></td></tr>
</table>

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>11 July 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

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PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 11 June 2005 have been fully considered but they are not persuasive.

In particular, with regard to the rejection of independent claim 16, Applicant submits
(a)   Chauvel fails to disclose or suggest a control signal in response to which the buffer reads data out to the application (Applicant's remarks, p. 3);
(b)   the digital bitstream of Chauvel is distinct from the message of the claimed invention (p. 4); and
(c)   Chauvel fails to disclose outputting a message before completion of the writing of the message (p. 4).

Furthermore, with regard to the rejections of claims 17-20, Applicant submits
(d)   facts Officially noticed in the prior Office action are not well known in the art and evidence supporting the facts noticed is requested (p. 5); and
(e)   even if facts Officially noticed are well known, they fail to alleviate the alleged deficiencies of Chauvel as applied to claim 16, and as such claims 17-20 are patentable over Chauvel for at least the same reasons as claim 16 (p. 5).

Regarding the rejection of claims 21-23, Applicant submits
(f)   there is no motivation to combine the teachings of Campanella and Powell (p. 6); and
(g)   the teachings of Campanella and Powell fail to alleviate the deficiencies of Chauvel as applied to claim 16 and as such claims 21-23 are patentable over the cited art for at least the same reasons as claim 16 (p. 7).

Regarding the rejection of claim 24, Applicant submits
(h)   the "reliance on such a large number of references" in rejecting the pending claims is not appropriate (pp. 7-8); and
(i)   O'Toole fails to alleviate the deficiencies of Chauvel, Campanella, and Powell with respect to the limitations claim 16 and as such claim 24 is patentable over the cited art for at least the same reasons as claim 16 (pp. 8-9).

In response to (a), the cited portion of Chauvel (col. 10, ll. 60-65) disclose reading a bitstream out from memory (312) to an application module (250). Chauvel clearly discloses that this "reading" is managed by the buffer controller (310) (see col. 18, l. 66 - col. 19, l. 6; particularly col. 19, l. 6). Hence, the buffer controller (310) is clearly configured to read a message (bitstream) from the buffer section out to the application module (250), as claimed. Furthermore, Chauvel discloses that DMA transfers from the buffer (312) to a/v decoders (250) occur in response to interrupt requests (i.e., control signals), and such requests are initiated by the a/v decoders (col. 19, l. 66 - col. 20, l. 17; particularly col. 20, ll. 16-17). Accordingly, Examiner submits that Chauvel clearly discloses "a control signal in response to which the buffer reads data out to the application", as recited in claim 16.

In response to (b), Examiner submits that the bitstream of Chauvel comprises a collection of audio, video, and auxiliary data packets (col. 8, ll. 50-58), e.g., a television program (col. 1, ll. 34-40). A television program is inherently finite in length and as such inherently comprises "a finite starting point and ending point." Accordingly, the bitstream of Chauvel meets the claimed "message" by any reasonable interpretation.

In response to (c), Examiner's reiterates the position set forth in the rejection of claim 16 that where the bitstream of Chauvel represents, e.g., an entire television program, the message is inherently read out before completion of the writing of the message, based on hardware constraints. In view of the above remarks, the rejection of claim 16 is maintained.

In response to (d), US 5,442,390, EP 0501699 A2, and EP 0653888 A2, all supplied by applicant in the IDS filed 26 September 2000 disclose the Officially noticed facts claimed in dependent claims 17-20. The non-final Office action mailed 12 August 2004 details where in the above cited references support for the claimed features are found.

In response to (e), Examiner submits issues raised by Applicant related to Chauvel as applied to claim 16 have been alleviated and therefore (e) is moot. Accordingly, the rejections of claims 17-20 are maintained.

In response to (f), Examiner submits that Powell evidences that employing a plurality of buffer registers in a control means of IC memory, such as the memory embodied in the combined teachings of Chauvel and Campanella as applied to claim 21, was well known at the time of the invention. Furthermore, Powell clearly discloses the benefits that can be achieved by employing said plurality of buffer registers, namely, enabling circular buffer functionality.

In response to (g), Examiner submits issues raised by Applicant related to Chauvel as applied to claim 16 have been alleviated and therefore (g) is moot. Accordingly, the rejections of claims 21-23 are maintained.

In response to (h), Examiner submits that reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See In re Gorman, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

In response to (i) Examiner submits issues raised by Applicant related to Chauvel as applied to claim 16 have been alleviated and therefore (i) is moot. Accordingly, the rejection of claim 24 is maintained.
Accordingly, claims 16-26 stand rejected.